

REMARKS

The present Amendment is in response to the Examiner's Office Action mailed November 21, 2005. Claims 2, 3, 14, and 16-37 are canceled, claim 1 is amended, and new claims 38-46 are added. Claims 1, 4-13, 15, and 38-46 are now pending of which 6-9 and 13 are currently withdrawn in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

I. Rejection Under 35 U.S.C. § 112, Second Paragraph

The Examiner rejects claim 14 under 35 U.S.C. § 112, Second Paragraph for indefiniteness. In response, the Applicants have canceled claim 14. Therefore, the rejection of claim 14 is moot.

II. PRIOR ART REJECTIONS

A. Rejection Under 35 U.S.C. §102(b)

The Examiner rejects claims 1-4, 10-12, and 14 under 35 U.S.C. § 102(b) as being anticipated by *Payne et al* (United States Patent No. 5,260,823). Claims 2 and 3 have been canceled. Therefore, the rejection of claims 2 and 3 is moot. Because *Payne* does not teach or suggest each and every element of the remaining rejected claims, Applicants respectfully traverse this rejection in view of the following remarks.

A claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *Manual of Patent Examining Procedure* (“MPEP”) § 2131.

Independent claim 1 recites the element, “wherein a first one of the at least one gain portion is designed to provide a lower-level of amplification than a second one of the at least one gain portion.” Support for this element can be found in paragraph [030] of the Applicants’ specification.

Payne does not appear to teach this element of independent claim 1 in combination with each and every other element of claim 1. Since *Payne* does not teach the apparatus being claimed in independent claim 1, Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. § 102(b) be withdrawn. Claims 4, 5, 10-13, and 15 depend from claim 1. Therefore, the Applicants respectfully request that the rejection of claims 4, 5, 10-13, and 15 be withdrawn at least for the same reasons as claim 1.

The applicant traverses the Examiner’s assertion that the use of the phrase “adapted to” relates to functional language. As each of the authority cited to by the Examiner makes clear, structural limitations are given patentable weight and structural elements include the arrangement of the structural elements as required by the claims. *See* MPEP 2131. Therefore, where the Applicants’ claims include elements relating to the arrangement, or order, of the structures recited therein these elements should be given patentable weight.

The Examiner rejects claim 15 under 35 U.S.C. § 102(b) as being anticipated by *Espindola et al* (United States Patent No. 5,920,424). As discussed above, independent claim 1 recites the element, “wherein a first one of the at least one gain portion is designed to provide a lower-level of amplification than a second one of the at least one gain portion.” *Espindola* does not appear to teach this element of claim 1. Claim 15 depends from claim 1. Therefore, the Applicants respectfully request that the rejection of claims 15 be withdrawn at least for the same reasons as claim 1.

B. Rejection Under 35 U.S.C. § 103

The Examiner rejects claim 5 under 35 U.S.C. § 103 as being unpatentable over *Payne* in view of *DiGiovanni et al.* (U.S. Patent No. 5,659,644).

Applicants traverse the Examiner's rejection for obviousness on the grounds that the references – either individually or in combination – fail to teach or suggest each and every element of the rejected claims.

According to MPEP section 2143:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

(Emphasis added).

Claim 5 depends from claim 1. As discussed above, *Payne* does not appear to teach every element of claim 1. *DiGiovanni* does not appear to teach the elements of claim 1 missing from *Payne*. Thus, the Applicants that the rejection of claim 5 be withdrawn.

III. NEW CLAIMS

Claims 38-46 have been added and are allowable over the references of record.

CONCLUSION

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 22 day of May, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "DAVID A. JONES" with a stylized flourish at the end.

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Amendments to the Drawings:

The attached sheet of drawings includes changes to Figure 3. This sheet, which includes Figures 3 and 4, replaces the original sheet including Figures 3 and 4. In Figure 3, references "A", "B", "C", and "D" described in detail in the specification but previously omitted from Figure 3 have been added.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

Appendix
(including amended drawing figures)

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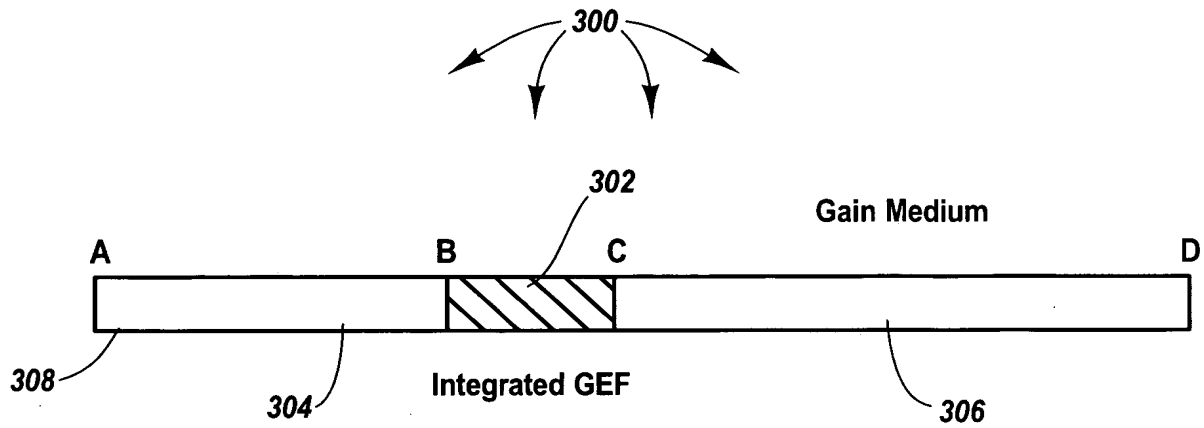


Fig. 3

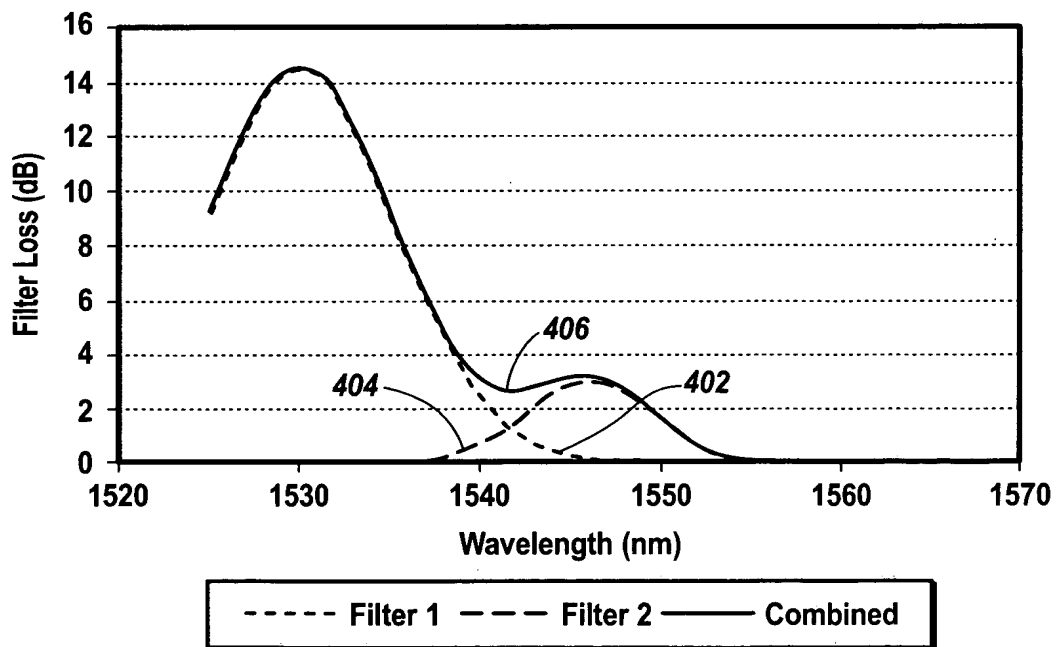


Fig. 4